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ATTACHMENT B

CLASSIFICATION

1. Unfortunately, the Office of Security has treated the "Confidential" classification appearing on Where's What in two ways:

a. In letters dated 8 October 1968, addressed to the chiefs of police at Washington, D.C., Arlington, Virginia, and Fairfax County, Virginia, it is stated: "Although the book is classified 'Confidential', this classification is not because of any intelligence information contained therein, but rather because of the sources contacted by [REDACTED] the author." (attached)

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b. In all other correspondence relative to classification, the term "Confidential" is used in the sense of a defense classification as described by Executive Order 10501. On 27 October 1971 and 10 November 1971, letters to the U.S. Army Intelligence Center and School, Fort Huachuca, Arizona, relative to its inquiries into the apparent loss of one of the copies of the book for which it was security accountable, the classification was reaffirmed based on commitments made by the author to certain government organizations, and it was stated: "For these reasons, it is essential that Where's What remain classified." (The addressee was told of the intended unclassified version by LEAA.) (attached)

2. Should we wish to assume the stance that "a." above is correct, we must acknowledge that the term "Confidential" was not intended to mean the defense classification, and that it was merely a similarly-named control marking, such as the use of the term in commercial activity. This would facilitate the desired LEAA distribution of the "classified" text, and would justify past Agency distribution of the text to civilian police departments in the past. However, it would make the Agency extremely vulnerable in several ways:

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a. The Office of Printing Services has advised that all ~~defense~~ unclassified publications are normally printed by the Government Printing Office, and that for the Agency to print such, a waiver is required from the Joint Committee on Printing, U.S. Congress. This Agency has already printed 1,000 copies of the book without such a waiver being obtained.

b. The Agency would be subject to at least criticism for publishing a source book of domestic information/intelligence sources for investigators, when expressly excluded from "police, subpoena, law-enforcement powers, or internal security functions" by the National Security Act of 1947, as amended. Present Congressional interest in so-called "invasion of privacy" would most certainly be enhanced by such a disclosure.

c. The nature of the work, once it is stated that a defense classification is not intended, would probably not exclude it under Public Law 89-487, the Freedom of Information Act. As noted in our security regulations

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██████████ "Accordingly, employees are advised to be knowledgeable of the distinction between classification, which will cause information to be exempt, and the use of 'control markings,' which by themselves are not." (emphasis added). The only statutory basis for Agency refusal of disclosure would appear to be the same factor facing LEAA in the publication of an unclassified version, the proprietary interest of others in materials used in the book, which is specified in Agency regulations as being of the type not normally provided under the Freedom of Information Act.

3. On the other hand, should we decide to opt for an interpretation of the book's "Confidential" marking as being a defense classification, we would be reaffirming the stated position of the past few years in communications with the LEAA and the Army. This position would be fortified by our registered number on each copy of the book and the careful log kept by ██████████ as to the disposition of each copy. The only factor which prejudices continuance of this position is the disposition of copies of the book:

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a. The writer has not attempted to delineate those executive agencies of the Federal Government receiving copies of the book as to whether they are or are not authorized to receive and store classified information by directive authority. The writer believes that this can be justified by the general statement in section 7 of Executive Order 10501 which states that "knowledge or possession of classified defense information shall be permitted only to those persons whose official duties require such access in the interest of promoting national defense and only if they have been determined to be trustworthy." (emphasis added) We would not, in dealings with the public, the press or other government agencies, desire to detail what is contained in our classified security regulations, and could justify any prior dissemination (or any future dissemination) within the Federal Government as being to "trustworthy" officers or persons in "positions of trust" for the purpose of promoting national defense.

b. We are still faced with past distribution of some 43 copies of the book to local police agencies. (Control files do not show if any of the copies sent to IOS Field Offices were subsequently disseminated to cooperative police agencies.) We do not necessarily know how the books are stored by the recipient departments, and it might be well to resist any temptation to find out if prescribed storage facilities are being used, for fear we will find out how many of the original distribution are now "missing." In some cases, we only have the receipt of the CIA officer delivering the books, not a receipt from the police agency itself, thus confounding the problem in regard to security regulations. The only "out" which can be suggested to cover this portion of the distribution of the book might again be in a very broad, and extremely fragile, reference to Executive Order 10501 and the Agency's position that the recipients were determined by the Agency to be trustworthy and that their receipt of the books was for the purpose of promoting the national defense (as it relates to Federal laws of interest to, but not enforced by, this Agency). We are vulnerable in this area and could only defend our distribution to police as a device

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for promoting acquisition of information "of foreign intelligence significance."

(Records reflect that five copies each were given to the Arlington and Fairfax County Police Departments and thirty-three copies were provided to the Washington Metropolitan Police Department. The latter number might appear inordinate, compared with the others, but if challenged we can recall that the Washington Metropolitan Police Department is as much an element of the Federal Government as are the other District of Columbia governmental functions.)

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